IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

ST.Rev..No. 95 of 2003

(TA.429/1994 of SALES TAX APPELLATE TRIBUNAL,ADDL.BENCH,KOZHIKODE).

REVISION PETITIONER/RESPONDENT:

MESSERS JAYARAM TRADERS,
MAHE, REPRESENTED BY PROPRIETOR, S.JANAKIRAMAN.

BY ADV. SRI.M.RAMESH CHANDER
ADV. SRI.P.RAGHUNATH

RESPONDENTS/ APPELLANT AND TWO OTHERS:
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1. INTELLIGENCE OFFICER (IB),
OFFICE OF THE DEPUTY COMMISSIONER (INT.),
BOARD OF REVENUE, CALICUT.

2. KERALA SALES TAX APPELLATE TRIBUNAL,
ADDL.BENCH, KOZHIKODE.

3. STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SHRI MUHAMMED RAFIQ.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

S.T.REV. NO. 95 OF 2003

Dated this the 18th July, 2007

O R D E R

H.L.DATTU, C.J.

This revision petition is filed against the orders passed by the Kerala Sales Tax Appellate Tribunal, Additional Bench, Kozhikode in T.A.No.429 of 1994, dated 26th March, 2002, for the assessment year 1991-92. The assessee has raised the following questions of law for our consideration and decision. They are as under:

> "a) Whether the Appellate Tribunal did not commit an error of law by not considering the case of the petitioners that in the light of the allegation of the First Respondent that the Transit Passes issued from the Check Post at the point of entry were not surrendered at the Azhiyur Chungam Check Post, under Sec.30B(3) of the Act, it is only the driver, owner of the vehicle or the person in charge of the vehicle who is liable to pay tax due on the disposal of the goods in the State of Kerala?
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> b) Whether the Appellate Tribunal did not commit an error of law in holding that the assessment has been completed under Sec.17 of the Act when the entire assessment is based on the allegation that the Transit Passes issued from the Check Post at the point of entry were not surrendered at the Azhiyur Chungam Check Post?
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> c) Whether the Appellate Tribunal was correct in holding that the goods have been disposed of in the State of Kerala by the Appellants on the ground that the records at the Azhiyur Chungam Check Post did not show that the goods have gone out of the State for the sole reason that the Petitioners did not prove the mode of transport, notwithstanding the plea of the Petitioners that the goods were delivered at their business place by the Sellers?

d) Whether the Appellate Tribunal did not commit an error in law in holding that the issue of C Forms did not conclusively prove that the goods were received in Mahe, especially in view of the fact that the Petitioners have disposed of the goods in Mahe and paid tax due thereon under the Local Act?

e) Whether the Appellate Tribunal was not unduly influenced by observations of the First Respondent that the total quantity of RKG Ghee purchased by dealers in Mahe was disproportionate to the needs of the people in Mahe, especially in view of the identical statistics available with respect to petrol, liquor and other goods?

f) Whether the Appellate Tribunal did not commit an error of law in not considering the logic behind the introduction of Sec.30B(3) of the Act which was brought in only to cover situations of the one involved in the matter?"

2. Learned counsel appearing for the parties to the lis would submit that the questions of law raised by the assessee are no more res integra in view of the orders passed by this Court in S.T.Rev.No.77 of 2003, dated 26th September, 2006 (**Messers Renuka Agencies, Mahe** v. **Intelligence Officer**).

3. In view of the above, the questions of law raised by the assessee are answered against the assessee and in favour of the Revenue.

Ordered accordingly.

(H.L.DATTU)
Chief Justice

(K.T.SANKARAN)
Judge

ahz/

H.L.DATTU, C.J. &
K.T.SANKARAN, J.

S.T.REV.NO. 95 OF 2003

O R D E R

18th July, 2007